LAWS, § 3769.) The ground was that a letter incorrectly stated the facts. Judgment having been entered for the plaintiff, the defendant sues out a writ of error to test the constitutionality of the statute under the Fourteenth Amendment. *Held*, that the judgment be affirmed. *Chi., R. I. & Pac. Ry. Co.* v. *Perry*, 42 Sup. Ct. Rep. 524.

For a discussion of the principles involved, see NOTES, *supra*, p. 195.

CONSTITUTIONAL LAW — POLITICAL QUESTIONS — CONSTITUTIONALITY OF ACT TAXING INCOME OF EMPLOYERS OF CHILD LABOR. — An act of Congress imposed an annual ten per cent tax on the net profits derived from the sale of products of industrial units in which children under certain ages had been employed during specified hours for any portion of the taxable year. The plaintiff sued to recover a tax assessed under this act and paid under protest. *Held*, that a judgment for the plaintiff be affirmed. *Bailey* v. *Drexel Furniture Co.*, 42 Sup. Ct. Rep. 449.

The invalidation of the Child Labor Tax Law was in no small measure due to the inartistic way in which it was framed. Before the decision in the principal case the United States Supreme Court had gone very far to sustain acts which on their face purported to be taxing acts, but which, because of the excessive rate of taxation, were open to suspicion as attempts to destroy the subjects taxed. The court refused to inquire into the motives of Congress in the exercise of its granted power of taxation. *Veazie Bank* v. *Fenno*, 8 Wall. (U. S.) 533; *McCray* v. *United States*, 195 U. S. 27; *Flint* v. *Stone Tracy Co.*, 220 U. S. 107; *United States* v. *Doremus*, 249 U. S. 86. See 35 HARV. L. REV. 859. In the principal case the court felt unable to indulge in a "presumption of validity" because of plain indications on the face of the act that it was intended not to impose a tax but to regulate a subject not properly within the control of Congress. However, the court might have supported even such an act by extending the principle indicated in the *Veazie Bank* and *McCray* cases, that the limitations on the exercise of the power of Congress to tax is a political question, and might have refused to examine an act which on its face purported to be an excise tax, although its provisions gave some indication to the contrary. *Cf. Luther* v. *Borden*, 7 How. (U. S.) 1; *Pacific States Tel. Co.* v. *Oregon*, 223 U. S. 118. See 35 HARV. L. REV. 858.

CONTRACTS — CHARTER-PARTY — REQUISITION BY GOVERNMENT. — The plaintiff, in 1912, chartered a ship from the defendant's predecessor in title for use during seven St. Lawrence seasons with an option of three additional seasons. The charter-party contained the customary "restraint of princes" clause. The ship was used for three seasons. It was requisitioned by the government for four months in 1915 during which time the plaintiff paid no charter hire. Later in 1915, the defendant became owner of the ship, and a novation was made between the parties. The ship was requisitioned again in 1916 for three months during which period the plaintiff did pay the charter hire. Both parties treated the charter-party as still in existence. The hire paid by the government to the defendant and his predecessor during the periods of requisition was considerably in excess of the amount payable under the charter-party. The plaintiff sues for this excess and for the charter hire paid by him in 1916. *Held*, that judgment be entered for the plaintiff for the amount of excess only. *Dominion Coal Co.* v. *Maskinonge Steamship Co. Ltd.*, 127 L. T. R. 307 (K. B.).

Considering the short duration of the periods of requisition and the conduct of the parties, it is very probable that there was no "frustration of adventure" in this case. *Tamplin Steamship Co.* v. *Anglo-Mexican*

Petroleum Products Co. [1916], 2 A. C. 397; *Dominion Coal Co.* v. *Roberts*, 6 T. L. R. 837. Where the contract continues to exist, the hire paid by the government is divisible between the owner and the charterer in proportion to the amount of damage, to their respective interests in the ship, caused by the requisitioning. *Chinese Mining and Engineering Co.* v. *Sale & Co.* [1917], 2 K. B. 599. See *Elliot Steam Tug Co.* v. *John Payne & Co.* [1920], 2 K. B. 693, 703. If there is no evidence of any interference with the owner's interest and the charterer has not paid the charter hire, as here in 1915, the charterer should recover the entire excess from the owner. *Dominion Coal Co.* v. *Roberts*, *supra*. But where the charterer has paid the charter hire, as here in 1916, he should be able to recover the full amount of government hire. See *Chinese Mining and Engineering Co.* v. *Sale & Co.*, *supra*, at 604. In the present case, the charterer, instead of trying to recover the above amounts, made necessarily inconsistent claims for the excess of both years and for charter hire paid by him. If the charter continues, he can recover the former, but not the latter for, although the owner is excused from performance by the "restraint of princes" clause, the charterer is obligated to perform. If the charter is frustrated, the charterer can recover the hire paid by him, but not the excess as he no longer has any interest in the ship.

CORPORATIONS — EMERGENCY FLEET CORPORATION — NOT IMMUNE FROM SUIT BECAUSE STOCK IS OWNED BY GOVERNMENT. — A bill was brought in the District Court by the plaintiff shipyards corporation to set aside a contract wrongfully obtained, for an accounting, and for restoration of property alleged to have been unlawfully seized by the agents of the Emergency Fleet Corporation. It was pleaded that the defendant was a government agent so identified with the United States that the action was maintainable only in the Court of Claims as provided by statute. (40 STAT. AT L. 913, 915.) The bill was dismissed. *Held*, that the decree be reversed. *Sloan Shipyards Corporation* v. *Emergency Fleet Corporation*, 42 Sup. Ct. Rep. 386.

An action was brought for breach of a contract made by the Emergency Fleet Corporation in its own name. The suit was dismissed upon demurrer to the complaint. *Held*, that the judgment be reversed. *Astoria Marine Iron Works* v. *Emergency Fleet Corporation*, 42 Sup. Ct. Rep. 386.

A claim of priority in bankruptcy was asserted against the estate of the Eastern Shore Shipbuilding Corporation by the Emergency Fleet Corporation on the ground that it was an agent of the government. *Held*, that the claim be denied. *Emergency Fleet Corporation* v. *Wood*, 42 Sup. Ct. Rep. 386.

This result was forecast. See *The Lake Monroe*, 250 U. S. 246; *United States* v. *Strang*, 254 U. S. 491. Yet confusion arose in the district courts. See 21 COL. L. REV. 485. To avoid this, the situation where the state carries on a business through an administrative body, and where a corporation, in which the state is a stockholder, is formed to carry on a business must be distinguished. It is arguable that the state should be subject to suit in the former situation. *Sargent County* v. *State*, 182 N. W. 270 (N. D.); criticized in 35 HARV. L. REV. 335. It is settled that the corporation is subject to suit in the latter situation. *Bank of United States* v. *Planters' Bank*, 9 Wheat. (U. S.) 904; *Darrington* v. *Bank of Alabama*, 13 How. (U. S.) 12. The decision in the principal cases is, in short, that the Emergency Fleet Corporation is a distinct legal entity and subject to suit the same as any corporation. The basis of the decisions holding the Corporation not liable in certain instances is that the Corporation in some of its activities acts as the government's agent. See *Comm. Finance*